

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

ZURICH AMERICAN INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 4:07cv77HTW-LRA

W. G. YATES & SONS CONSTRUCTION COMPANY,  
AIG BAKER REAL ESTATE, L.L.C.,  
AND AIG BAKER HOOVER, L.L.C.

DEFENDANTS

**AGREED ORDER OF DISMISSAL**

THIS CAUSE came on for hearing on the joint motion of the parties for the dismissal of AIG Baker Real Estate, L.L.C., and AIG Baker Hoover, L.L.C. (collectively “AIG Baker”), and the Court, being fully advised in the premises and noting that the parties are in agreement, does hereby find as follows:

1. At issue in this declaratory judgment action is whether Zurich American Insurance Company (“Zurich”) has a duty to defend and a duty to indemnify W.G. Yates & Sons Construction Company (“Yates”) for the allegations of the Complaint filed against Yates by AIG Baker in the Circuit Court of Jefferson County, Alabama (the “Underlying Action”).
2. AIG Baker and Yates have agreed to a settlement of the Underlying Action, pursuant to which Yates will be dismissed from the Underlying Action.
3. As a result of the settlement of the Underlying Action, AIG Baker no longer has any stake in this action. AIG Baker is therefore neither a necessary nor indispensable party to this action, and is dismissed from this action with prejudice.
4. Venue is proper in this Court. Yates withdraws its Joinder in AIG Baker’s previous motion to transfer venue to the Northern District of Alabama and consents to venue

in this Court. The Magistrate Judge's December 26, 2007 and April 28, 2008 Orders transferring venue of this action to the Northern District of Alabama are vacated as moot. This Court provides the most convenient venue for this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that (1) AIG Baker Real Estate, L.L.C., and AIG Baker Hoover, L.L.C. should be and hereby are dismissed with prejudice from this action; and (2) the Magistrate Judge's December 26, 2007 and April 28, 2008 Orders transferring venue of this action to the Northern District of Alabama are hereby vacated as moot. Venue of this action will remain in this Court.

SO ORDERED AND ADJUDGED, this the 9<sup>th</sup> day of July, 2008.

s/ HENRY T. WINGATE  
CHIEF UNITED STATES DISTRICT JUDGE

APPROVED AND AGREED:

s/ John B. Clark  
John B. Clark, MS Bar No. 6263  
Attorney for Zurich American Insurance Company

s/ William R. Purdy  
William R. Purdy, MS Bar No. 4534  
Attorney for W.G. Yates & Sons Construction Company

s/Clyde O. Westbrook, III  
Clyde O. Westbrook, III (PHV), AL Bar No. ASB-4320-065C  
Attorney for AIG Baker Hoover, L.L.C.  
and AIG Baker Real Estate, L.L.C.

CIVIL ACTION NO. 4:07cv77HTW-LRA  
Agreed Order of Dismissal as to AIG Defendants